

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

BELKORP AG, LLC, a Delaware limited
liability company,

Plaintiff,

v.

VENTURE PRODUCTS, INC., an Ohio
corporation,

Defendant.

No. 1:23-cv-00762-DJC-DB

ORDER

Plaintiff, a Delaware limited liability company, brings multiple state law claims arising from the termination of their agreement with Defendant, an Ohio corporation, to sell golf and turf equipment. Defendant now moves to transfer this action to the United States District Court for the Northern District of Ohio, arguing the transfer is required under the Parties' agreement which includes a valid forum selection clause. For the reasons stated below, the Court agrees, and will grant the venue transfer.

FACTUAL AND PROCEDURAL BACKGROUND

Plaintiff Belcorp AG, LLC is a dealer of agricultural, construction, and golf/turf equipment. (Compl. (ECF No. 1) ¶ 6.) Plaintiff is incorporated in Delaware with its principal place of business in Modesto, California. (*Id.* ¶ 1.)

1 In 2016, Plaintiff entered into a Turf House Dealer Agreement ("Dealer
2 Agreement") with Defendant Vulture Products, Inc., a manufacturer and supplier of
3 power equipment used in the golf and turf industries, to market Defendant's
4 equipment. (*Id.* ¶¶ 7-8.) Defendant is an Ohio corporation. (*Id.* ¶ 2.) The Dealer
5 Agreement automatically extended each year unless terminated by one of the Parties.
6 (*Id.* ¶ 9.) On April 3, 2023, Defendant notified Plaintiff that it would be terminating the
7 Dealer Agreement effective October 31, 2023. (*Id.* ¶¶ 19-20.)

8 Plaintiff filed their Complaint on May 16, 2023, bringing claims under the
9 California Fair Practices of Equipment Manufacturers, Distributors, Wholesales, and
10 Dealers Act ("CEDA"), Cal. Bus. & Prof. Code §§ 22900, *et seq.*, and the Ohio Farm
11 Machinery or Construction Equipment Dealers and Suppliers Law, Ohio Rev. Code
12 Ann. §§ 1353.01, *et seq.* (*Id.* ¶¶ 23-85.) Defendant filed a Motion to Transfer Venue
13 on July 7, 2023, to transfer this action to the United States District Court for the
14 Northern District of Ohio. (Mot. Transfer Venue (ECF No. 6) at 2.) The Motion is fully
15 briefed and was taken under submission by the Court pursuant to Local Rule 230(g).
16 (ECF No. 11.)

17 **LEGAL STANDARD**

18 Under 28 U.S.C. § 1404(a), a district court may, for "the convenience of parties
19 and witnesses," "transfer any civil action to any other district or division where it might
20 have been brought or to any district or division to which all parties have consented."
21 The purpose of section 1404(a) "is to prevent the waste 'of time, energy and money'
22 and 'to protect litigants, witnesses, and the public against unnecessary inconvenience
23 and expense[.]'" *Van Dusen v. Barrack*, 376 U.S. 612, 616 (1964) (quoting *Cont'l Grain*
24 *Co. v. Barge FBL-585*, 364 U.S. 19, 26-27 (1960)). In considering a transfer pursuant to
25 section 1404(a), the district court undertakes an "individualized, case-by-case
26 consideration of convenience and fairness." *Jones v. GNC Franchising, Inc.*, 211 F.3d
27 495, 498 (9th Cir. 2000) (internal citation omitted).

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Typically, in considering a venue transfer, courts “must evaluate both the convenience of the parties and various public-interest considerations,” “weigh[ing] the relevant factors and decid[ing] whether, on balance, a transfer would serve ‘the convenience of the parties and witnesses’ and otherwise promote ‘the interests of justice.’” *Atl. Marine Constr. Co. v. U.S. Dist. Ct. for W. Dist. Texas*, 571 U.S. 49, 62–63 (2013) (quoting 28 U.S.C. § 1404(a)). “The calculus changes, however, when the parties’ contract contains a valid forum-selection clause, which represents the parties’ agreement as to the most proper forum.” *Id.* (citation and internal quotation marks omitted). Under such circumstances, “a proper application of [section] 1404(a) requires that a forum-selection clause be given controlling weight in all but the most exceptional cases.” *Id.* at 59–60 (citation and internal quotation marks omitted).

ANALYSIS

Defendant argues that this action must be transferred to the United States District Court for the Northern District of Ohio because the Dealer Agreement contains a valid forum-selection clause, which states:

Any action filed by either party as a result of a dispute resulting from [the Dealer Agreement] shall only be filed in the Common Pleas Court of Wayne County, Ohio, or in the United States District Court for the Northern District of Ohio, it being expressly agreed by Dealer and VPI that said forums shall have exclusive and sole jurisdiction and venue to hear disputes between the parties arising out of [the Dealer Agreement.]

(Mot. Transfer Venue at 3.) Plaintiff opposes the transfer on two grounds. First, Plaintiff asserts that the forum-selection clause is void pursuant to CEDRA such that enforcing it would defy California’s public policy. (Opp’n Mot. Transfer Venue (ECF No. 16) at 2–3.) Second, Plaintiff argues that in the absence of a valid forum-selection clause, evaluation of the section 1404(a) factors weighs in favor of denying Defendant’s Motion. (*Id.* at 3.)

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1 As discussed further below, the Court finds that the forum-selection clause is
2 valid and enforceable under federal law. Accordingly, the Court will grant
3 Defendant's Motion and transfer this matter to the United States District Court for the
4 Northern District of Ohio.

5 **I. The Forum-Selection Clause is Valid**

6 Federal law governs the enforcement of forum-selection clauses in diversity
7 cases. *Manetti-Farrow, Inc. v. Gucci Am., Inc.*, 858 F.2d 509, 513 (9th Cir. 1988).
8 Forum-selection clauses are assumed to be valid and should be honored and
9 enforced by the courts "absent some compelling and countervailing reason." *M/S*
10 *Bremen v. Zapata Off-Shore Co.*, 407 U.S. 1, 12 (1972). The enforcement of a forum-
11 selection clause is unreasonable if: (1) including the clause in the agreement was a
12 result of fraud or overreach; (2) the party wishing to abandon the clause would be
13 effectively denied its day in court; and (3) enforcement would violate strong public
14 policy of the forum the suit is brought. *Richards v. Lloyd's of London*, 135 F.3d 1289,
15 1294 (9th Cir. 1998).

16 *First*, Plaintiff contends that the forum-selection clause is invalid because
17 Defendant is attempting to "leverage [a] one-sided, force-fed" agreement which was
18 the "result of a take-it-or-leave-it offer" by Defendant. (Opp'n Mot. Transfer Venue at
19 2, 14.) However, courts routinely find that mere disparate bargaining power between
20 the parties and the inability to negotiate the forum-selection clause are insufficient to
21 invalidate the clause. *See, e.g., Murphy v. Schneider Nat'l, Inc.*, 362 F.3d 1133, 1141
22 (9th Cir. 2004) (despite evidence that an employee was unable to freely negotiate a
23 forum-selection clause, the employee's "assertions reduce to a claim of power
24 differential and non-negotiability," which was "not enough to overcome the strong
25 presumption in favor of enforcing forum[-]selection clauses"); *Carnival Cruise Lines,*
26 *Inc. v. Shute*, 499 U.S. 585, 595 (1991) (passenger who entered into contract with
27 defendant cruise company bound by forum selection clause even though paid for
28 cruise before receiving ticket containing the clause). Plaintiff has failed to

1 demonstrate any other fraud or overreach on Defendant's part. Rather, Plaintiff and
2 Defendant are corporate entities who entered into a business relationship of their own
3 volition. (See Compl. ¶¶ 1-9.) If Plaintiff objected to the forum-selection clause, they
4 should have done so while negotiating the Dealer Agreement. They did not. Thus,
5 the Court does not find that the forum selection clause is invalid on the basis of fraud
6 or overreach.

7 *Second*, Plaintiff argues that accessing witnesses, documents, and other pieces
8 of evidence will be "eased if this case remains in this forum." (Opp'n Mot. Transfer
9 Venue at 11.) However, this does not establish that litigating the claims in the
10 Northern District of Ohio would be difficult. To prove that a party would be denied its
11 day in court, it must typically show that all relevant witnesses are not located in the
12 contracted forum, they are physically unable to go to the agreed-upon forum, or they
13 lack the financial ability to continue in the forum. *White Knight Yacht LLC v. Certain*
14 *Lloyds at Lloyd's London*, 407 F. Supp. 3d 931, 948 (S.D. Cal. 2019). Plaintiffs have not
15 offered any evidence to suggest that this standard has been met. Thus, Plaintiff has
16 not demonstrated that it would be deprived of its day in court by abiding by the
17 forum-selection clause.

18 *Third*, Plaintiff argues that the forum-selection clause is void and unenforceable
19 pursuant to CEDA. (Opp'n Mot. Transfer Venue at 2-3.) Typically, a "contractual
20 choice-of-forum clause should be held unenforceable if enforcement would
21 contravene a strong public policy of the forum in which suit is brought, whether
22 declared by statute or by judicial decision." *M/S Bremen*, 407 U.S. 1, 15. CEDA states,
23 in relevant part, that "[a] provision in any contract or agreement with respect to a
24 supplier that requires jurisdiction or venue or forum outside of this state or requires
25 the application of the laws of another state is void with respect to a claim otherwise
26 enforceable under this act." Cal. Bus. & Prof. Code § 22927. Additionally, section
27 22900 of CEDA states:

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1 The Legislature finds and declares that the retail distribution,
2 sales, and rental of agricultural, construction, utility,
3 industrial, mining, outdoor power, forestry, and lawn and
4 garden equipment, utilizing independent dealers operating
5 under contract with the supplier vitally affects the general
6 economy of the state, the public interest, and the public
welfare. Therefore, the Legislature has determined that it is
necessary to regulate the business relations between the
dealers and suppliers as described in this chapter.

7 Cal. Bus. & Prof. Code § 22900. Plaintiff asserts that this section “establishes the CEDA
8 as an expression of the State’s strong public policy” (Opp’n Mot. Transfer Venue
9 at 7.)

10 The Court disagrees that CEDA constitutes a strong expression of California’s
11 public policy, as courts have previously rejected this same argument for similar
12 statutes. For example, in *Audeamus Inc. v. Baxter Construction Company, Inc.*, the
13 court considered whether California Code of Civil Procedure section 410.42, which
14 provides that clauses in construction contracts that require disputes to be litigated
15 outside of California are void and unenforceable, expressed a strong public policy
16 sufficient to prevent the case from being transferred to the Southern District of Iowa
17 under a forum-selection clause. No. 20-cv-01333-JLT-SKO, 2022 WL 605407, at *4-5
18 (E.D. Cal. Mar. 1, 2022). The court found that it did not, reasoning that, while section
19 410.42 might be binding on California state courts, “[u]nder both Supreme Court and
20 Ninth Circuit precedent, the [c]ourt is not precluded by [s]ection 410.42 from
21 enforcing the forum selection clause.” *Id.* The court also ruled that the plaintiff failed
22 to identify other public policy concerns that would mandate the action remain in
23 California. *Id.* at *5. Thus, the court transferred the matter to Iowa. *Id.* As in
24 *Audeamus*, the Court finds that, under federal law, CEDA does not preclude
25 enforcement of the forum-selection clause in the Dealer Agreement here.

26 *Gemini Technologies, Inc. v. Smith & Wesson Corp. (“Gemini”),* 931 F.3d 911
27 (9th Cir. 2019), cited by Plaintiffs, does not compel a different result. There, the
28 plaintiff argued enforcement of a forum-selection clause was contrary to Idaho’s

1 public policy under Idaho Code section 29-110(1), which provides: "Every stipulation
2 or condition in a contract, by which any party thereto is restricted from enforcing his
3 rights under the contract in Idaho tribunals . . . is void as it is against the public policy
4 of Idaho." *Id.* at 916. The court ruled that forum-selection clause was void because
5 the plain language of the statute expressly declared a strong public policy of Idaho.
6 *Id.* Here, on the other hand, CEDA does not contain such express language declaring
7 a strong public policy of California. While Business and Professions Code section
8 22900 suggests that the type of contract at issue in this case generally speaking
9 "vitally affects the general economy of the state, the public interest, and the public
10 welfare," there is no indication in the statute or caselaw that the specific prohibition on
11 out-of-state forum selection clauses in section 22927 itself implicates fundamental
12 public policy. This weighs against invalidating the forum-selection clause.¹

13 Finally, Plaintiff argues the Court should decline to enforce the forum-selection
14 clause under the precedent set forth in *DePuy Synthes Sales, Inc. v. Howmedica*
15 *Osteonics Corp.*, 28 F.4th 956 (9th Cir. 2022). (Mot. Transfer Venue at 5-7.) The Court
16 disagrees. In *DePuy*, an employee hired by a California company signed a contract
17 that included a forum-selection clause requiring adjudication of contract disputes in a
18 different state. *DePuy*, 28 F.4th at 958. Later, the employee left the company and
19 threatened legal action. *Id.* He stated that he would exercise his right to void the
20 forum-selection clause under California Labor Code section 925, which allows certain
21 contracts with California employees to be "voidable by the employee" under specific
22 conditions. *Id.* The Ninth Circuit concluded that section 925 determined "the
23 threshold question of whether [the employee's] contract contains a valid forum-
24 selection clause." *Id.* at 964. As opposed to state laws "purporting to set a categorical

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26 ¹ Furthermore, the *Gemini* court observed that the implications of its decision were limited as only four
27 other states had statutes similar to Idaho's. 931 F.3d at 916. Thus, the court concluded that its holding
28 did not risk making the invalidation of forum-clauses routine rather than extraordinary, noting that
under its narrow holding, "successful public policy challenges to forum-selection clauses similar to
Idaho's are bound to be far from routine." *Id.*

1 rule," which are preempted by 28 U.S.C. § 1404(a), the Ninth Circuit concluded that
2 section 925 addressed "the upstream question of whether the contract sought to be
3 enforced includes a viable forum-selection clause." *Id.* Since there was effectively no
4 forum-selection clause in the contract, the court affirmed the district court's
5 application of the traditional section 1404 factors without reference to the clause.

6 While the Ninth Circuit in *DePuy* concluded that state law could be used to
7 excise a forum-selection clause from a contract, and that federal courts were bound by
8 such a law, no such provision applies here. This case is distinguishable from *DePuy's*
9 narrow holding as, unlike *DePuy*, this case does not involve a voidable provision in a
10 contract such that a *party* is permitted to decide whether the forum selection clause is
11 in fact part of the contract. Rather, Business and Professions Code section 22927 is
12 the type of categorial rule that is presumptively preempted by section 1404(a).

13 Thus, the forum-selection clause in the Dealer Agreement is valid.

14 **II. The Forum-Selection Clause Requires Transfer to the United States**
15 **District Court for the Northern District of Ohio**

16 As discussed above, in a section 1404(a) analysis, the Court first determines
17 whether the case could have been brought in the transferee forum and then considers
18 the convenience of the parties and witnesses and the interest of justice. 28 U.S.C.
19 § 1404(a). Courts look to several factors to determine where the interests of justice
20 and convenience lie, including "(1) plaintiff's choice of forum, (2) convenience of the
21 parties, (3) convenience of the witnesses, (4) ease of access to the evidence,
22 (5) familiarity of each forum with the applicable law, (6) feasibility of consolidation of
23 other claims, (7) any local interest in the controversy, and (8) the relative court
24 congestion and time of trial in each forum." *Barnes & Noble, Inc. v. LSI Corp.*, 823 F.
25 Supp. 2d 980, 993 (N.D. Cal. 2011).

26 However, where an agreement includes a valid forum-selection clause, the
27 court must disregard plaintiff's choice of forum and the parties' private interests. *Atl.*
28 *Marine*, 571 U.S. at 63-64. It will instead "consider[s] arguments about public-interest

1 factors only," and "those factors will rarely defeat a transfer motion." *Id.* at 64. Further,
2 "the party acting in violation of the forum-selection clause . . . must bear the burden of
3 showing that public-interest factors overwhelmingly disfavor a transfer." *Id.* at 66.
4 Public-interest factors include: (1) administrative difficulties flowing from court
5 congestion; (2) imposition of jury duty on the people of a community unrelated to the
6 litigation; (3) the local interest in resolving the controversy at home; (4) the interest in
7 having a diversity case tried in a forum familiar with the law that governs the action;
8 and (5) the avoidance of unnecessary conflicts of law problems. *Gemini Cap. Grp.,*
9 *Inc. v. Yap Fishing Corp.*, 150 F.3d 1088, 1094 (9th Cir. 1998).

10 The Court finds that the public interest factors weigh in favor of transfer. First,
11 this Court is highly congested, having one of the heaviest caseloads in the nation.
12 Second, Plaintiff has brought claims under both Ohio and California law. Thus, any
13 jury members in Ohio will not be unduly burdened with litigation unrelated to their
14 community. Third, although Plaintiff is at home in California, it not only agreed to
15 conduct business with Defendant, whose principal place of business is in Ohio, but it
16 also agreed to a Dealer Agreement that is governed by Ohio law. Therefore,
17 California and Ohio have at least an equal interest in resolving these claims.
18 Additionally, the Court has already decided that CEDA does not implicate any strong
19 interest on the part of California. Thus, any local interest in resolving this matter does
20 not rise to a level that would make the agreed-upon forum-selection clause void.
21 Fourth, any district judge in Ohio is more than capable of applying California law.
22 Finally, the Court does not find any unnecessary conflicts of law implicated here.

23 Accordingly, the forum-selection clause is enforceable.

24 CONCLUSION

25 Based on the foregoing, the Court hereby GRANTS Defendant's Motion to
26 Transfer Venue (ECF No. 6) as follows:

- 27 1. The Court orders this action to be transferred to the United States District
28 Court for the Northern District of Ohio;

2. The Court further orders the Clerk of the Court for the Eastern District of California to forward all filings in this action to the United States District Court for the Northern District of Ohio; and
3. The Clerk of the Court for the Eastern District of California shall close this case upon completion of the transfer.

IT IS SO ORDERED.

Dated: **March 25, 2025**


Hon. Daniel J. Calabretta
UNITED STATES DISTRICT JUDGE